

IN THE
Supreme Court of the United States

OCTOBER TERM, 1987

OTIS R. BOWEN, SECRETARY OF HEALTH AND
HUMAN SERVICES,v. *Appellant*CHAN KENDRICK, *et al.***On Appeal from the United States District Court
for the District of Columbia****MEMORANDUM FOR APPELLEE UNITED FAMILIES
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October 16, 1987

IN THE
Supreme Court of the United States
OCTOBER TERM, 1987

No. 87-431

OTIS R. BOWEN, SECRETARY OF HEALTH AND
HUMAN SERVICES,

Appellant

v.

CHAN KENDRICK, *et al.*

On Appeal from the United States District Court
for the District of Columbia

**MEMORANDUM FOR APPELLEE UNITED FAMILIES
OF AMERICA IN SUPPORT OF APPELLANT**

This is an appeal, pursuant to 28 U.S.C. 1252, from a final order of the district court issued August 13, 1987. J.S. App. 52a-55a. This order incorporates an earlier interlocutory decision, rendered April 15, 1987, that the Adolescent Family Life Act, 42 U.S.C. (& Supp. III) 300z *et seq.* (the "AFLA"), is unconstitutional insofar as it involves "religious organizations" in its programs. J.S. App. 46a. The final order additionally holds that the AFLA's references to "religious organizations" and the involvement of religious organizations in the program are severable from the remainder of the statute, and denies

the government's motion, under Fed. R. Civ. P. 59(e), for clarification of the term "religious organizations."

On behalf of appellant, the Secretary of Health and Human Services, the Solicitor General has filed two jurisdictional statements raising identical issues, one (No. 87-253) from the interlocutory order of April 15, 1987, the other (this appeal, No. 87-431) from the final order. In addition, plaintiffs Chan Kendrick, *et al.*, have filed a conditional cross-appeal (No. 87-462).*

Appellee United Families of America is an organization with members who are parents of minor children eligible for services provided under the AFLA. United Families of America was defendant-intervenor in the proceeding below, where it defended the constitutionality of the AFLA. On September 11, 1987, United Families of America filed a notice of appeal from the final judgment of August 13, 1987, and will file a jurisdictional statement, in accord with Sup. Ct. Rules 12 and 15, within the time limits set by 28 U.S.C. 2101(a).

The Solicitor General's jurisdictional statement raises substantially the same issues that United Families of America will raise in its appeal. United Families of America's reasons for noting probable jurisdiction will be set forth in full in its jurisdictional statement. Judicial economy suggests that the several jurisdictional statements in this case be considered together. We therefore urge this Court to postpone consideration of this jurisdictional statement until all related appeals have been docketed, at which time we would urge the Court to note probable jurisdiction and consolidate the appeals.

Respectfully submitted,

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* United Families of America will respond to the cross-appeal in a separate submission.